

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL GORRIO, <i>Plaintiff</i>	:	
	:	CIVIL ACTION
	:	
v.	:	
	:	
CORRECTIONAL OFFICER SHORTER <i>et al.</i>, <i>Defendants</i>	:	
	:	
	:	No. 23- 4807

ORDER

AND NOW, this 13th day of May, 2024, upon consideration of Plaintiff Michael Mr. Gorrio’s Third Amended Complaint Complaint (ECF No. 14), it is **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to **AMEND** this caption to reflect the following Defendants, who are named in the Third Amended Complaint: (1) Superintendent Joseph Terra; (2) Correctional Officer Shorter; (3) Correctional Officer Edwards; (4) Correctional Officer Bethea; (5) “John Doe and Jane Doe” Officers and Lieutenants on M-Unit; (6) Lieutenant Jolliff; (7) Lieutenant Hunter; (8) Sergeant Green; (9) Sergeant F. Webster; (10) Captain Drusel; (11) Captain Fitzgerald-Young; (12) Security Lieutenant Buggy; (13) Security Lieutenant Wade; (14) Security Lieutenant Hall; (15) Security Lieutenant Wright; (16) Security Lieutenant White; (17) Unit Manager Wychunis; (18) Major D. Mascellino; (19) Deputy Sipple; (20) Deputy Bradley; and (21) Deputy Hensley.

2. The claims in Mr. Gorrio’s Third Amended Complaint are **DISMISSED WITH PREJUDICE except for the following claims**: (1) Mr. Gorrio’s failure to protect and failure to intervene claims against Defendants Officer Shorter, Officer Bethea, Sergeant Green, Officer Edwards, and John or Jane Does officers on M-Unit on duty August 17-19, 2023, in their individual capacities; and (2) Mr. Gorrio’s deliberate indifference to serious medical needs claims against

Defendants Officer Bethea, Sergeant Green, Officer Edwards, and John and/or Jane Doe officers on duty on August 17, 2023, in their individual capacities.

3. The Clerk of Court is **DIRECTED** to **TERMINATE** the following Defendants: (1) Superintendent Joseph Terra; (2) Lieutenant Jolliff; (3) Lieutenant Hunter; (4) Sergeant F. Webster; (5) Captain Drusel; (6) Captain Fitzgerald-Young; (7) Security Lieutenant Buggey; (8) Security Lieutenant Wade; (9) Security Lieutenant Hall; (10) Security Lieutenant Wright; (11) Security Lieutenant White; (12) Unit Manager Wychunis; (13) Major D. Mascellino; (14) Deputy Sipple; (15) Deputy Bradley; and (16) Deputy Hensley.

4. The case shall proceed at this time to service by the U.S. Marshal Service, in accordance with 28 U.S.C. § 1915(d) and Federal Rule of Civil Procedure 4(c)(3), against the following Defendants:

- a. Correctional Officer Shorter
- b. Correctional Officer Edwards
- c. Correctional Officer Bethea
- d. Sergeant Green

5. Service cannot be made on the unidentified John and Jane Does Officers on M-Unit unless or until Mr. Gorrio provides sufficient identifying information to allow for service. It is Mr. Gorrio's responsibility to notify the Court of the defendant(s) identities if/when that information is obtained.

6. In anticipation of service by the U.S. Marshal Service, the Clerk of Court is **DIRECTED** to send a copy of this Order to Mr. Gorrio together with one copy of the U.S. Marshal Service of Process Receipt and Return Form USM-285 ("USM-285 Form") for each defendant

listed in paragraph four (4) of this Order.¹ The Clerk of Court is further **DIRECTED** to note the mailing on the docket.

7. To proceed with service, Mr. Gorrio must complete a USM-285 Form for each defendant listed in paragraph four (4) and return the completed form(s) to the Clerk's Office within **twenty-one (21) days** of the date of this Order. Service cannot be made by the U.S. Marshal Service until Mr. Gorrio completes and returns these forms.

8. In completing the USM-285 Form(s), Mr. Gorrio is instructed as follows:

- a. Mr. Gorrio should complete a separate USM-285 Form for each defendant listed in paragraph four (4) of this Order. Only one defendant's name should appear on each USM-285 Form.
- b. Mr. Gorrio shall not complete a USM-285 Form for any individual or entity that is not listed as a defendant in paragraph four (4) of this Order, including but not limited to any defendant who already has been dismissed from this case.
- c. Mr. Gorrio should include as much identifying information as possible for each defendant, including the defendant's first name, last name, and, where relevant, the defendant's badge number.
- d. Mr. Gorrio must provide each defendant's complete address at a location where that defendant can be served. The U.S. Marshals Service cannot serve a defendant at a P.O. Box address. It is Mr. Gorrio's responsibility, and not the duty of the Court, the Clerk's Office, or the Marshals Service, to ascertain the addresses of the defendants. *See, e.g., Meade v. Reynolds*, 810 F. App'x 86, 88 (3d Cir. 2020) (*per curiam*) (“[T]he plaintiff must provide the district court with

¹ This form is available online at https://www.usmarshals.gov/sites/default/files/media/document/usm-285_process-receipt.pdf.

sufficient information to enable the Marshals Service to effectuate service of process.” (citing *Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993)); *Harris v. McMullen*, 609 F. App’x 704, 707 (3d Cir. 2015) (*per curiam*) (“Harris has not pointed to any authority instructing that a District Court or the USMS must engage in extraordinary measures to assist an [*in forma pauperis*] litigant in locating a defendant’s address for the purpose of service of process, and we are not aware of any.”).

- e. Failure to include a proper address may result in the defendant not being served and/or the dismissal of Mr. Gorrio’s claims against any such defendant.

9. Mr. Gorrio is cautioned that failure to return the completed USM-285 Form(s) in accordance with the above instructions may result in dismissal of this case for failure to prosecute without further notice from the Court.

10. The Clerk of Court is **DIRECTED** to docket any USM-285 Forms that Mr. Gorrio returns in this case.

11. The Clerk of Court is **DIRECTED** not to issue summonses at this time. The Court will direct issuance of summonses upon receipt of properly completed USM-285 Forms.

BY THE COURT:

s/ Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE